

ESTTA Tracking number: **ESTTA600996**

Filing date: **04/28/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92055094
Party	Plaintiff Swig, Inc.
Correspondence Address	JEFFREY A TINKER WINSTEAD PC 2728 N HARWOOD ST, 500 WINSTEAD BLDG DALLAS, TX 75201 UNITED STATES jtinker@winstead.com
Submission	Response to Board Order/Inquiry
Filer's Name	Janie Muennink
Filer's e-mail	jmuennink@winstead.com
Signature	/Janie Muennink/
Date	04/28/2014
Attachments	Notice_of_Status_of_Northern_District_of_Ohio.pdf(141666 bytes)

Cancellation No. 92055094

Date: April 28, 2014

Respectfully submitted,

WINSTEAD PC

/s/ Jeffrey A. Tinker

Jeffrey A. Tinker

500 Winstead Building

2728 N. Harwood Street

Dallas, Texas 75201

Telephone: (214) 745-5400

Attorneys For Petitioner, Swig, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above Notice has been served on the following counsel of record on this April 28, 2014, via Electronic Mail as follows:

Gregg W. Emch
emch@mstfirm.com
Joseph W. Tucker
tucker@mstfirm.com
MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fifth Floor
720 Water Street
Toledo, Ohio 43604

/s/ Jeffrey A. Tinker

Jeffrey A. Tinker

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Swig, Inc.,

Case No. 3:13-mc-00088

Petitioner,

v.

ORDER

Temperance Distilling Company, Inc.,

Respondent.

Before me is the second motion of Temperance Distilling Company, Inc., to quash subpoenas to testify served by Swig, Inc., on Molly and Brian Pearson, who are former employees of Temperance. (Doc. No. 3). Temperance asserts I must quash the subpoenas pursuant to Rule 45(c)(3)(A) because the testimony Swig seeks would require the Pearsons to testify about the content of conversations the Pearsons had with Temperance's attorneys, and therefore would force the Pearsons to testify about matters protected by the attorney-client privilege. *See* Fed. R. Civ. P. 45(a)(3)(A)(iii) (issuing court must quash or modify a subpoena that requires disclosure of privileged material if no exception or waiver applies). I ordered the Pearsons to answer Swig's written deposition questions and then to submit notarized copies of their response to my chambers. (Doc. No. 7). The Pearsons timely complied with my order.

I have reviewed the Pearsons' responses and conclude those responses do not discuss any information which implicates the attorney-client or any other privilege. Therefore, I deny Temperance's motion to quash the subpoenas and direct the clerk's office to return the completed

deposition questions to the office of Jones & Solomon. Thereafter, Joseph Solomon, counsel for the Pearsons, shall serve copies of the completed deposition questionnaires on Swig, Inc.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge